

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

3:11-cr-179

UNITED STATES OF AMERICA

vs.

FRAZIER DERRING

ORDER

THIS MATTER is before the Court upon motion of the defendant to set aside or vacate convictions, pursuant to 18 U.S.C. § 3532 (regarding Fed. R. Crim. P. 29) and 28 U.S.C. § 636 (regarding powers of magistrate judges), based on a claim of ineffective assistance of counsel. (Doc. No. 38).

The defendant was convicted on December 8, 2001, after a jury trial. (Doc. No. 22: Verdict). A motion for acquittal under Rule 29 must be made within 14 days after a guilty verdict. The instant motion was not filed within that time frame, and such claims are appropriately raised pursuant to 28 U.S.C. § 2255, United States v. King, 119 F.3d 290, 295 (4th Cir. 1997).

IT IS, THEREFORE, ORDERED, that the defendant's motion to set aside or vacate conviction (Doc. No. 38) is DENIED without prejudice.

Signed: July 3, 2012



Robert J. Conrad, Jr.
Chief United States District Judge

